IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

Bail Appl..No. 4507 of 2007()

CRIME NO.35/2001 OF THUMBA POLICE STATION
CP.83/2007 of J.M.F.C.-II,TRIVANDRUM

.....

PETITIONER/6TH ACCUSED

S.PRADEEP, S/O. SASI,
PUTHUVALMANAKKAD, MEDANADA,
KORALAMKUZHY, KULATHUR,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.P.M.PAREETH
SRI.G.BIJU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
STATION HOUSE OFFICER, THUMBA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT, THROUGH PUBLIC
PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4507 of 2007

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Dated this the 26th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment in a prosecution, inter alia, under Sections 307 and 326 r/w. 149 I.P.C. At the stage of investigation, the petitioner was enlarged on bail. Investigation is complete. Final report has been filed. Committed proceedings were registered. But, as the petitioner was not available, the co-accused were committed and the case against him was split up and the same is pending as C.P. 83 of 2007 before the J.F.C.M. -II, Trivandrum.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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